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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

BENNIE C.,

Defendant and Appellant.

B187866

(Los Angeles County
Super. Ct. No. JJ13126)

APPEAL from a judgment of the Superior Court of Los Angeles County.
Charles Scarlett, Judge. Affirmed.

Gerald Peters, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General of the State of California, Robert R. Anderson, Chief Assistant Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, Lawrence M. Daniels, Supervising Deputy Attorney General, and Yun K. Lee, Deputy Attorney General, for Plaintiff and Respondent.

The trial court sustained a petition alleging that appellant Bennie C. committed attempted second degree robbery in violation of Penal Code sections 211 and 664, a felony. Appellant admitted committing battery in violation of Penal Code section 242, a misdemeanor, as alleged in a second petition. The court found that appellant was a person described by Welfare and Institutions Code¹ section 602, adjudged him to be a ward of the court, and ordered him to camp for a term of six months, with a maximum confinement time of three years for the robbery and six months for the battery.

Appellant appeals from the orders sustaining the petition and adjudging him to be a ward of the court, contending that the juvenile court failed to exercise his discretion in setting his maximum term of confinement. We affirm the juvenile court's orders.

Facts

On the afternoon of June 7, 2005, Angelica Morales got off a bus in Los Angeles County and answered a call on her cellular telephone. Appellant's friend Christian struck Morales on the ear and grabbed her phone. The two struggled, and the phone dropped to the ground. Appellant pushed Morales, then ran away with Christian.

Appellant testified that he was with Christian when Christian tried to steal Morales's phone. Appellant stated that he did not know that Christian intended to steal a cell phone.

Huntington Park Police Officer Alex Escobar testified in rebuttal appellant told him that he knew that Christian intended to steal a cell phone.

¹ All further statutory references are to that code unless otherwise indicated.

Discussion

Appellant contends that the trial court had discretion under section 731 to set a maximum term of confinement based on the facts and circumstances of this matter but failed to exercise that discretion. We do not agree.

Section 726, subdivision (c), provides in pertinent part: "If the minor is removed from the physical custody of his or her parent or guardian as the result of an order of wardship made pursuant to Section 602, the order shall specify that the minor may not be held in physical confinement for a period in excess of the maximum term of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court."

Physical confinement for purposes of section 726 means "placement in a juvenile hall, ranch, camp, forestry camp or secure juvenile home pursuant to Section 730, or in any institution operated by the Youth Authority." (§ 726, subd. (c).)

Here, appellant was placed in camp, and so section 726 applies to his term of confinement. Appellant acknowledges that the maximum periods of confinement specified by the juvenile court are correct under section 726.

Section 731, subdivision (b) provides in pertinent part: "A minor committed to the Department of the Youth Authority may not be held in physical confinement for a period of time in excess of the maximum period of imprisonment which could be imposed upon an adult convicted of the offense or offenses which brought or continued the minor under the jurisdiction of the juvenile court. *A minor committed to the Department of the Youth Authority also may not be held in physical confinement for a period of time in excess of the maximum term of physical confinement set by the court based upon the facts and circumstances of the matter or matters which brought or continued the minor under the jurisdiction of the juvenile court,* which may not exceed the maximum period of adult confinement as determined pursuant to this section." (Italics added.)

Section 731 applies only when a minor is committed to the California Youth Authority. (*In re Alex N.* (2005) 132 Cal.App.4th 18, 26.) Appellant was not committed

to the Youth Authority. He was sent to camp, an entirely different outcome than the Youth Authority. (See *In re Ronny P.* (2004) 117 Cal.App.4th 1204.)

Disposition

The court's orders are affirmed.

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ARMSTRONG, J.

We concur:

TURNER, P.J.

MOSK, J.